

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

BRYAN SWANHART,

Plaintiff,

-against-

TROOPER KYLE JACKSON

Defendant.

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
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DATE FILED: 9/29/2023

No. 20 Civ. 6819 (NSR)
ORDER OF PARTIAL DISMISSAL

NELSON S. ROMÁN, United States District Judge:

Plaintiff Bryan Swanhart (“Bryan S.” or “Plaintiff”) brings this action under 42 U.S.C. §§ 1983, 1985, and 1986, and state common law, asserting, *inter alia*, multiple civil rights violations against Defendants Trooper Kyle Jackson (“Trooper Jackson”), Captain Paul Artuz (“Captain Artuz”), Lieutenant Michael Harvey (“Lieutenant Harvey”), and John Doe Officers 1-5 (collectively, “Defendants”), asserting federal claims for violations of his constitutional rights, as well as an assortment of state common law claims arising from the conduct allegedly underlying these violations. (*See* ECF No. 33, First Amended Complaint (“FAC”).)

In an Opinion and Order dated July 13, 2023, the Court denied Defendants’ motion to dismiss Plaintiff’s federal claims for excessive force and false arrest against Trooper Jackson but dismissed Plaintiff’s other federal claims against Trooper Jackson without prejudice. (ECF No. 51, at 26-27.) With respect to the other remaining Defendants in this action, Captain Artuz, Lieutenant Harvey, and John Doe Officers 1-5, the Court dismissed all of Plaintiff’s federal claims against them without prejudice. The Court also dismissed Plaintiff’s state law claims against all Defendants with prejudice. (*Id.*)

Regarding the claims that were deemed dismissed without prejudice, the Court granted Plaintiff leave to file a Second Amended Complaint inclusive of these claims on or before August


10, 2023. (*Id.*) The Court noted that, if Plaintiff failed to timely file a Second Amended Complaint, all claims that were deemed dismissed without prejudice would be deemed dismissed with prejudice, absent a showing of good cause. (*Id.*)

As of this date, September 29, 2023, Plaintiff has failed to file a Second Amended Complaint and has not shown good cause for this failure. Therefore, the Court dismisses Plaintiff's following claims, which were formerly deemed dismissed without prejudice, with prejudice: (1) interference with familial association as against all Defendants; (2) malicious prosecution pursuant to Section 1983 as against all Defendants; (3) conspiracy pursuant to Sections 1983 and 1985(3) as against all Defendants; (4) excessive force as against Captain Artuz, Lieutenant Harvey, and John Doe Officers 1-5; and (5) false arrest as against Captain Artuz, Lieutenant Harvey, and John Doe Officers 1-5.

Thus, Plaintiff's only remaining claims in this action are for excessive force and false arrest as against Trooper Jackson. As Plaintiff has no claims remaining against Captain Artuz, Lieutenant Harvey, and John Doe Officers 1-5, the Clerk of the Court is kindly directed to terminate these Defendants from this action.

Dated: September 29, 2023
White Plains, NY

SO ORDERED:



HON. NELSON S. ROMAN
UNITED STATES DISTRICT JUDGE